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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/556,006

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Matthew P. J. Baker

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BRIARCLIFF MANOR, NY 10510

EXAMINER

REGO, DOMINIC E

ART UNIT

PAPER NUMBER

2618

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/556,006

Applicant(s)

BAKER ET AL.

Examiner

Dominic E. Rego

Art Unit

2618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 November 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1,2,5-13 and 16-19 is/are rejected.
- 7) ☒ Claim(s) 3,4,14 and 15 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input checked="" type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Objections

1. Claims 4 and 10 are objected to because of the following informalities: Claim 4 recites, "wherein the receiver means (210) is adapted to receive" which should be wherein the receiver means (240) is adapted to receive. Claim 10 is a dependent claim which can't be depend on itself. Appropriate correction is required.

Specification

2. The disclosure is objected to because of the following informalities: On page 8, lines 32, recites "primary station 200" which should be primary station 100. Appropriate correction is required.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1,5-12, and 16-19 are rejected under 35 U.S.C. 102(e) as being anticipated by Saints et al. (US Patent #-6,374,085).

Regarding claim 1, Saints teaches a secondary station (200) (Figure 1, elements 16A and 16B) for use in a communication system comprising a primary station (100) (Figure 1, element 12) and a secondary station (200) (Figure 1, elements 16A and 16B), the secondary station (200) (Figure 1, elements 16A and 16B) comprising:

receiver means (240) for receiving a first signal transmitted by the primary station (100) (Col 5, lines 34-36);

measurement means (250) for measuring a first characteristic of the received first signal (Col 11, lines 13-32);

processing means (260) for deriving power control commands from the measured first characteristic, transmitter means (210) for transmitting control information comprising at least the power control commands to the primary station (100) (Col 5, lines 34-49);

further comprising control means (270) responsive to the primary station (100) failing to adjust its transmit power in compliance with the transmitted power control commands for modifying a parameter of the control information transmitted to the primary station (100) (Col 2, lines 9-15; Col 2, lines 40-52; Col 3, lines 10-40; Col 5, lines 34-49; Col 11, lines 13-32).

Regarding claims 5 and 16, Saints teaches a secondary station (200), wherein the control means (270) is adapted to detect failure of the primary station (100) to adjust its transmit power in compliance with the transmitted power control commands (Col 2, lines 9-15; Col 2, lines 40-52; Col 3, lines 10-40; Col 5, lines 34-49; Col 11, lines 13-32).

Regarding claims 6 and 17, Saints teaches a secondary station (200), wherein the control means (270) is adapted to detect failure of the primary station (100) to adjust its transmit power in compliance with the transmitted power control commands by determining the signal-to-interference ratio (SIR) of the received first signal and by detecting when a function of the SIR fulfils a predetermined criterion (Col 2, lines 9-15;

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Col 2, line 40-Col 3, line 40; Col 4, line 48- Col 5, line 49; Col 11, lines 13-32).

Regarding claims 7 and 18, Saints teaches a secondary station (200), wherein the control means (270) is adapted to receive an indication of the failure of the primary station (100) to adjust its transmit power in compliance with the transmitted power control commands (Col 2, lines 9-15; Col 2, lines 40-52; Col 3, lines 10-40; Col 5, lines 34-49; Col 11, lines 13-32).

Regarding claim 8, Saint teaches a secondary station (200), wherein the control means (270) is adapted to store an indication of one or more predetermined times at which the primary station (100) may fail to adjust its transmit power in compliance with the transmitted power control commands and wherein the control means (270) is responsive to the occurrence of the one or more predetermined times for modifying the parameter of the control information transmitted to the primary station (100) (Col 2, lines 9-15; Col 2, lines 40-52; Col 3, lines 10-40; Col 5, lines 34-49; Col 9, lines 30-62); Col 11, lines 13-32).

Regarding claim 9, Saint teaches a communication system (50) comprising a secondary station (200) and a primary station (100), the primary station (100) comprising:

transmitter means (110) for transmitting a first signal (Col 4, lines 47-66);
receiver means (140) for receiving power control commands (Col 4, lines 47-66);
control means (150) for adjusting the transmit power of the first signal in compliance with the received power control commands provided that the adjustment is

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within the contemporaneous capability of the primary station (100) (Col 2, line 40-Col 3, line 40; Col 4, line 48-col 5, line 32); and

wherein the primary station control means (150) is adapted to adapt a characteristic of a transmission in response to receiving the modified control information (Col 2, line 40-Col 3, line 40; Col 4, line 48-col 5, line 32).

Regarding claim 10, Saint teaches a communication system (50), wherein the primary station control means (150) is adapted to generate an indication for transmission in response to failing to adjust the transmit power of the first signal in compliance with the received power control commands (Col 2, lines 9-37; Col 2, line 40-Col 3, line 40).

Regarding claim 11, Saints teaches a primary station (100) for use in a communication system (50) comprising a primary station (100) (Figure 1, element 12) and a secondary station (200) (Figure 1, elements 16A and 16B), the primary station (100) comprising:

transmitter means (110) for transmitting a first signal (Col 4, lines 47-66);

receiver means (140) for receiving power control commands (Col 4, lines 47-66);

control means (150) for adjusting the transmit power of the first signal in compliance with the received power control commands provided that the adjustment is within the contemporaneous capability of the primary station (100) (Col 2, line 40-Col 3, line 40; Col 4, line 48-col 5, line 32);

wherein the control means (150) is adapted to generate an indication for transmission in response to failing to adjust the transmit power of the first signal in

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compliance with the received power control commands (Col 2, line 40-Col 3, line 40; Col 4, line 48-col 5, line 32).

Regarding claim 12, Saints teaches a method of operating a communication system (50) comprising a primary station (100) (Figure 1, element 12) and a secondary station (200) (Figure 1, elements 16A and 16B), the method comprising:

transmitting a first signal from the primary station (100); at the secondary station (200), receiving the first signal (Col 4, lines 48- 66);

while receiving the first signal, measuring a first characteristic of the received first signal, deriving power control commands from the measured first characteristic, and transmitting control information comprising at least the power control commands (Col 4, line 48-Col 5, line 49);

at the primary station (100), receiving the power control commands (Col 5, lines 45-57);

adjusting the transmit power of the first signal in compliance with the received power control commands provided that the adjustment is within the contemporaneous capability of the primary station (100) (Col 2, lines 9-15; Col 2, lines 40-52; Col 3, lines 10-40; Col 5, lines 34-49; Col 11, lines 13-32);

further comprising, at the secondary station (200), in response to the primary station (100) failing to adjusting the transmit power in compliance with the received power control commands, modifying a parameter of the control information transmitted to the primary station (100), and at the primary station (100), in response to receiving the modified control information, adapting a characteristic of a transmission (Col 2, lines

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9-15; Col 2, lines 40-52; Col 3, lines 10-40; Col 5, lines 34-49; Col 11, lines 13-32).

Regarding claim 19, Saints teaches a method, wherein times at which the primary station (100) fails to adjust the transmit power in compliance with the received power control commands are predetermined (Col 2, lines 9-15; Col 2, lines 40-52; Col 3, lines 10-40; Col 5, lines 34-49; Col 11, lines 13-32).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saints et al. (US Patent #-6,374,085) in view of Shahidi et al. (US Patent Application Publication #2002/0173309).

Regarding claims 2 and 13, Saints teaches all the claimed elements in claim 1, except for a secondary station (200), wherein the control means (270) is adapted to modify the parameter of the control information transmitted to the primary station (100) by generating an indication of a power step size for transmission to the primary station (100) to use when adjusting its transmit power.

However, in related art, Shahidi teaches a secondary station (200), wherein the control means (270) is adapted to modify the parameter of the control information transmitted to the primary station (100) by generating an indication of a power step size

for transmission to the primary station (100) to use when adjusting its transmit power (See abstract, Paragraphs 0025, 0028, and 0047).

Therefore, it would have obvious to one of ordinary skill in the art at the time of the invention to provide the above teaching of Shahidi to Saints in order to receive clear signals.

Allowable Subject Matter

7. Claims 3,4,14, and 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Regarding claims 3 and 14, the prior art of record fails to teach a secondary station (200), wherein the receiver means (240) is adapted to receive a second signal transmitted by the primary station (100);

wherein the measurement means (250) is adapted to measure a second characteristic of the received second signal;

wherein the processing means (260) is adapted to derive channel quality reports from the measured second characteristic, wherein the transmitter means (210) is adapted to transmit the channel quality reports to the primary station (100) at a predetermined rate; and

wherein the control means (270) is adapted to modify the parameter of the control information transmitted to the primary station (100) by causing the channel quality reports to be transmitted at a rate higher than the predetermined rate.

Regarding claims 4 and 15, the prior art of record fails to teach a secondary station (200), wherein the receiver means (210) is adapted to receive a second signal transmitted by the primary station (100);

wherein the measurement means (250) is adapted to measure a second characteristic of the received second signal;

wherein the processing means (260) is adapted to derive channel quality reports from the measured second characteristic, whereby each of the channel quality reports is derived by averaging a function of the measured second characteristic over a predetermined time period, wherein the transmitter means (210) is adapted to transmit the channel quality reports to the primary station (100); and

wherein the control means (270) is adapted to modify the parameter of the control information transmitted to the primary station (100) by causing the averaging to be performed over a time period shorter than the predetermined time period.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Cramer, III (US Patent Application Publication #2003/0153345) teaches power control in spread spectrum communication system.

Shiu et al. (US Patent #6983,166) teaches power control for a channel with multiple formats in a communication system.

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Wilenegger (US Patent Application Publication #2005/0208961) teaches method and apparatus for controlling transmits power of multiple channels in a CDMA communication system.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dominic E. Rego whose telephone number is 571-272-8132. The examiner can normally be reached on Monday-Friday, 8:30 am-5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nay Maung can be reached on 571-272-7882. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Dominic E. Rego


PHILIP J. SOBUTKA
PATENT EXAMINER

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